

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GREEN SOLUTIONS RECYCLING, LLC,

Plaintiff,

v.

REFUSE, INC.; RENO DISPOSAL
COMPANY, INC.; WASTE MANAGEMENT
OF NEVADA, INC.; CITY OF RENO; and
DOES 1-10; *et al.*

Defendants.

Case No. 3:16-cv-00334-MMD-VPC

ORDER

Plaintiff Green Solutions Recycling, LLC ("GSR"), a Nevada limited liability company, initiates this action against the City of Reno and three Nevada corporations alleging that Defendants entered into exclusive garbage disposal contracts, thereby restraining trade in violation of both federal and state law. (ECF No. 1.)


GSR asserts that this Court has federal question jurisdiction under the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, and the Commerce Clause, U.S. CONST., art. I, § 8. After reviewing the complaint, it appears from the factual allegations that this case concerns a local dispute among the City of Reno and Nevada companies and does not affect or implicate interstate commerce. This Court therefore questions whether it has subject matter jurisdiction over this case. *See McLain v. Real Estate Bd. of New Orleans, Inc.*, 444 U.S. 232, 232-33 (1980) ("To establish jurisdiction under the Sherman Act, a plaintiff must allege the relationship between the activity involved and some aspect of interstate commerce and . . . if [the activity] is local in nature, that it has [a substantial]

1 effect on some other appreciable activity demonstrably in interstate commerce."); see also
2 *City of Los Angeles v. County of Kern*, 581 F.3d 841 (9th Cir. 2009) (holding that recyclers
3 lacked prudential standing to bring claim asserting that county ordinance violated the
4 dormant Commerce Clause because the purpose of the dormant Commerce Clause was
5 to limit power to states to erect barriers against interstate trade, recyclers' alleged injury
6 was not even marginally related to interests Clause sought to safeguard, and ordinance
7 did not burden recyclers' protected interest in the interstate waste market).

8 It is the plaintiff's burden to establish subject matter jurisdiction. See *Kanter v.*
9 *Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001). However, it does not appear
10 that GSR has met its burden based on the bare allegation that Defendants' conduct has
11 had an impact on interstate trade.

12 It is therefore ordered that GSR respond to this Order to state why this Court has
13 subject matter jurisdiction over the Sherman Antitrust Act and Commerce Clause claims.
14 GSR must file the response within ten (10) days of the date of this Order. Defendants will
15 then have seven (7) days from that date to respond.

16 DATED THIS 16th day of February 2017

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20 MIRANDA M. DU
21 UNITED STATES DISTRICT JUDGE
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